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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, LE V

ART UNIT PAPER NUMBER

2174

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,006

Applicant(s)

GEIER ET AL.

Examiner

Le Nguyen

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to an amendment filed 1/13/05.
2. Claims 47-74 are pending in this application. Claims 47, 56 and 66 are independent claims; and, claims 47, 56 and 66 are newly amended. This action is made Final.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 47, 56 and 66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by "a common theme correlated to an index of the recordable media" in lines 3-4 of claim 47, line 5 of claim 56 and 4 of claim 66. The examiner will interpret this passage to mean: an index correlating to graphics displayed from a media file, the index having a selected common theme with how the media file is displayed. Support for this interpretation is found in sections [0028-0029] of the published application, US 2002/0089540 A1, wherein applicant cites "[s]lider 61 visually indicates time information correlated to the graphic 64 (not shown) displayed from the media file 63 in the selectable icon 60" (section [0028]) and "[t]he shape of selectable icon 60 is correlated to theme 102A".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 47-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka et al. ("Slivka") in view of Katinsky et al. ("Katinsky").

As per claim 47, although Slivka teaches a graphical user interface for creating recordable media with a computer from media files, the user interface comprising a window frame defining a pane having a common theme (see Slivka, figure 7, item 170, and column 3, lines 55 - 67, and column 19, lines 20 – 29; the examiner interprets a template as a common theme because it describes the settings for the user interface elements of a window; a plurality of control buttons displayed on the frame (see Slivka, figure 7, item 172) and icon indicating the common theme and correlated to a respective a selectable media file such that the selectable icon indicates the media file to be recorded onto the recordable media (see Slivka, figure 7, item 180, column 3, lines 62 - 66, column 11, lines 2 - 3 and column 19, line 66 - column 20, line 7; the examiner interprets graphical icons in a folder view as selectable icons indicating a media file and it is taught that the template provides graphical icons in a folder view; therefore, it is inherent that the icons displayed in figure 7, item 180 are representative of the template and therefore indicate the theme. It is also inherent that the selectable icons displayed indicate the media file to be recorded onto a recordable media because

it is taught that user interface operations of the Windows@ 95 operating system are available in the folder views, and the Windows@ 95 operating system has features to allow the drag and drop of media file icons onto recordable mediums), Slivka does not explicitly disclose a common theme correlated to an index of a displayed media file. Katinsky teaches a GUI for displaying media files comprising a common theme correlated to an index of a displayed media file, i.e. an index correlating to graphics displayed from a media file, the index having a selected common theme with how the media file is displayed (fig. 7; col. 1, lines 15-31; col. 6, lines 1-16; *an index of the recordable media such as a slider correlates to graphics displayed in window 80 from a selected media file 16 of play list 50 wherein the window and slider have a common theme*). Therefore, it would have been obvious to an artisan at the time of the invention to include Katinsky's teaching of a GUI for displaying media files comprising a common theme correlated to an index of a displayed media file to Slivka's teaching of a GUI for displaying media files comprising a common theme correlated to a media file in order to provide users with an indication of the amount of the stream that has been and remains to be played.

As per claim 48, which is dependent on claim 47, the modified Slivka teaches the graphical user interface of claim 47 (see rejection above). Slivka further teaches the graphical user interface of claim 47 further comprising a status indicator displayed on the pane (see Slivka, figure 7, item 176, and column 19, lines 56 - 59., the examiner interprets a title banner as a status indicator because it displays the name of the folder represented in the folder view).

As per claim 49, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above).

Slivka further teaches the graphical user interface of claim 47 further comprising an application window having the media files (see Slivka, figure 7, item 172) and wherein the media file is displayed as a selectable icon (see Slivka, figure 7, item 180) by dragging and dropping the media file from the application window to the pane (see Slivka, column 19, line 66 - column 20, line 7; it is inherent that the selectable icons displayed indicate a media file and it is taught that icon drag and drop user interface operations of the Windows@ 95 operating system are available in the folder views).

As per claim 50, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above). Slivka further teaches the graphical user interface of claim 47 further comprising a title for each selectable icon, the title corresponding to a respective media file (see Slivka, figure 7, item 180).

As per claim 51, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above).

Slivka further discloses the graphical user interface of claim' 47 wherein the selectable icon comprises a graphic image of the respective media file (see Slivka, column 2, lines 28 - 32).

As per claim 52, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above). Slivka further teaches the graphical user interface of claim 47 wherein the selectable icon is configured to initiate playback of the media file when selected (see Slivka, column 19, line 66 - column 20, line 7; it is

inherent that Windows® 95 user interface operations include playback of a file with its associated application program once initiated).

As per claim 53, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above). Slivka further teaches the graphical user interface of claim 47 wherein the theme is user definable (see Slivka, column 7, lines 47 - 51).

As per claim 55, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above). Slivka further teaches the graphical user interface of claim 47 wherein the recordable media is selected from the group consisting of: a digital versatile disc (DVDI; a digital versatile disc recordable (DVDR); a compact disc recordable (CDRI; and a computer readable removable medium (see Slivka, column 5, lines 15 - 19).

As per claim 56, it is of similar scope to claim 47 and is rejected under the same rationale as claim 47 (see rejection above).

As per claim 57, which is dependent on claim 56, it is of similar scope to claim 48 and is rejected under the same rationale as claim 48 (see rejection above).

As per claim 58, which is dependent on claim 56, it is of similar scope to claim 49 and is rejected under the same rationale as claim 49 (see rejection above).

As per claim 59, which is dependent on claim 56, it is of similar scope to claim 50 and is rejected under the same rationale as claim 50 (see rejection above).

As per claim 60, which is dependent on claim 56, it is of similar scope to claim 51 and is rejected under the same rationale as claim 51 (see rejection above).

As per claim 61, which is dependent on claim 56, it is of similar scope to claim 52 and is rejected under the same rationale as claim 52 (see rejection above).

As per claim 62, which is dependent on claim 56, it is of similar scope to claim 53 and is rejected under the same rationale as claim 53 (see rejection above).

As per claim 64, which is dependent on claim 56, Slivka teaches the graphical user interface of claim 56 (see rejection above). Slivka further teaches the computer readable medium of claim 56 further comprising instructions for recording the media files onto the recordable media (see Slivka, column 5, lines 15 - 19, and column 19, line 66 - column 20, line 7; it is inherent that the media files are stored on the secondary medium).

As per claim 65, which is dependent on claim 64, it is of similar scope to claim 55 and is rejected under the same rationale as claim 55 (see rejection above).

As per claim 66, it is of similar scope to claim 47 and is rejected under the same rationale as claim 47 (see rejection above).

As per claim 67, which is dependent on claim 66, it is of similar scope to claim 48 and is rejected under the same rationale as claim 48 (see rejection above).

As per claim 68, which is dependent on claim 66, it is of similar scope to claim 49 and is rejected under the same rationale as claim 49 (see rejection above).

As per claim 69, which is dependent on claim 66, it is of similar scope to claim 50 and is rejected under the same rationale as claim 50 (see rejection above).

As per claim 70, which is dependent on claim 66, it is of similar scope to claim 51 and is rejected under the same rationale as claim 51 (see rejection above).

As per claim 71, which is dependent on claim 66, it is of similar scope to claim 51 and is rejected under the same rationale as claim 51 (see rejection above).

As per claim 72, which is dependent on claim 66, it is of similar scope to claim 53 and is rejected under the same rationale as claim 53 (see rejection above).

As per claim 73, which is dependent on claim 66, it is of similar scope to claim 64 and is rejected under the same rationale as claim 64 (see rejection above).

As per claim 74, which is dependent on claim 72, it is of similar scope to claim 55 and is rejected under the same rationale as claim 55 (see rejection above).

6. Claims 54 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka et al. ("Slivka") in view of Katinsky et al. ("Katinsky") as applied to claims 47 and 56 respectively, and further in view of Johnston, Jr. et al. ("Johnston").

As per claim 54, which is dependent on claim 47, Slivka teaches the graphical user interface of claim 47 (see rejection above). Slivka further teaches the graphical user interface of claim 47 wherein the theme comprises backgrounds to be displayed in the pane (see Slivka, column 4, lines 16 - 20), selectable icon shapes (see Slivka, column 19, lines 48 - 52; the examiner interprets large icons and small icons as icon shapes), and fonts (see Slivka, column 19, lines 56 - 59). Slivka does not teach wherein said theme comprises arrangement information for said selectable icons. Johnston teaches a theme comprising arrangement information for selectable icons (see Johnston figures 2C; the option to choose a "straight grid" arrangement or a "staggered grid" arrangement for icon views is taught). It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the graphical user

interface taught by Slivka with the method taught by Johnston to allow application designers and application users to have additional flexibility and greater control over the appearance and behavior of desktop objects and individual controls for those objects.

As per claim 63, which is dependent on claim 56, it is of similar scope to claim 54 and is rejected under the same rationale as claim 54 (see rejection above).

Response to Arguments

7. Applicant's arguments with respect to claims 47-74 have been considered but are moot in view of the new ground(s) of rejection.

Inquires

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is (571) 272-4068. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063. The fax numbers for the organization where this application or proceeding is assigned are as follows:

(703) 872-9306 [Official Communication]

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

LVN
Patent Examiner
May 10, 2005

Kristine Kincaid
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